

2001 - 2002 LEGISLATURE

LRBb04931
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LFB:.....Dyck – Sanctions for repeat OWI offenders (Motion #1030, #40)

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1541, line 13: after that line insert:

3 “**SECTION 3407e.** 342.12 (4) (a) of the statutes is amended to read:

4 342.12 (4) (a) The district attorney shall notify the department when he or she
5 files a criminal complaint against a person who has been arrested for violating s.
6 346.63 (1) or (2), 940.09 (1), or 940.25 and who has 2 or more prior convictions,
7 suspensions, or revocations, as counted under s. 343.307 (1). Except as provided
8 under par. (c), the department may not issue a certificate of title transferring
9 ownership of any the motor vehicle owned by the person and involved in the violation
10 upon receipt of a notice under this subsection until the court assigned to hear the
11 criminal complaint issues an order permitting the department to issue a certificate
12 of title.

1 **SECTION 3407f.** 342.12 (4) (b) of the statutes is amended to read:

2 342.12 (4) (b) Except as provided under par. (c), if a person has 2 or more prior
3 convictions, suspensions, or revocations, as counted under s. 343.307 (1), and the
4 department receives notice of intent to revoke the person's operating privilege under
5 s. 343.305 (9) (a), the department may not issue a certificate of title transferring
6 ownership of any the motor vehicle owned by a ~~person upon receipt of a notice of~~
7 ~~intent to revoke the person's operating privilege under s. 343.305 (9) (a), if the person~~
8 ~~has 2 or more prior convictions, suspensions or revocations, as counted under s.~~
9 ~~343.307 (1), the person and involved in the violation until the court assigned to the~~
10 hearing under s. 343.305 (9) issues an order permitting the department to issue a
11 certificate of title.

12 **SECTION 3407g.** 342.12 (4) (c) 1. (intro.) of the statutes is amended to read:

13 342.12 (4) (c) 1. (intro.) The department shall issue a certificate of title
14 transferring ownership of a motor vehicle that was ~~owned by a person who has~~
15 ~~received a notice of intent to revoke the person's operating privilege under s. 343.305~~
16 ~~(9) (a) or has been arrested for violating s. 346.63 (1) or (2), 940.09 (1) or 940.25 and~~
17 ~~who has 2 or more prior convictions, suspensions or revocations, as counted under~~
18 ~~s. 343.307 (1), subject to the restrictions under par. (a) or (b) if all of the following~~
19 conditions are met:".

20 ✓ **2.** Page 1542, line 2: after that line insert:

as affected by 2001
Wisconsin Act.... (this
act),

21 **SECTION 3409g.** 343.10 (5) (a) 3. of the statutes is amended to read:

22 343.10 (5) (a) 3. If the applicant has 2 or more prior convictions, suspensions,
23 or revocations, as counted under s. 343.307 (1), the occupational license of the
24 applicant shall restrict the applicant's operation under the occupational license to

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1 vehicles that are equipped with a functioning ignition interlock device if the court
2 has ordered under s. 346.65 (6) (a) 1., ~~1997~~ ¹⁹⁹⁹ stats., or s. 343.301 (1) (a) 1. or 2. that a
3 motor vehicle owned by the person be equipped with an ignition interlock device. A
4 person to whom a restriction under this subdivision applies violates that restriction
5 if he or she requests or permits another to blow into an ignition interlock device or
6 to start a motor vehicle equipped with an ignition interlock device for the purpose of
7 providing the person an operable motor vehicle without the necessity of first
8 submitting a sample of his or her breath to analysis by the ignition interlock device.
9 If the occupational license restricts the applicant's operation to a vehicle that is
10 equipped with an ignition interlock device, the applicant shall be liable for the
11 reasonable costs of equipping the vehicle with the ignition interlock device."

12 **3.** Page 1543, line 6: delete the material beginning with that line and ending
13 with page 1547, line 7, and substitute:

14 "SECTION 3415m. 343.30 (1q) (b) 3. of the statutes is amended to read:

15 343.30 (1q) (b) 3. Except as provided in subd. 4m., if the number of convictions
16 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
17 convictions, suspensions, and revocations counted under s. 343.307 (1) within a
18 10-year period, equals 2, the court shall revoke the person's operating privilege for
19 not less than one year nor more than 18 months. After the first 60 days of the
20 revocation period or, if the revocation period is for more than one year, and the total
21 number of convictions, suspensions, and revocations counted under this subdivision
22 within a 5-year period equals 2, after one year of the revocation period has elapsed,
23 the person is eligible for an occupational license under s. 343.10 if he or she has

any

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1 completed the assessment and is complying with the driver safety plan ordered
2 under par. (c).

3 **SECTION 3416m.** 343.30 (1q) (b) 4. of the statutes is amended to read:

4 343.30 (1q) (b) 4. Except as provided in subd. 4m., if the number of convictions
5 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
6 convictions, suspensions, and revocations counted under s. 343.307 (1), equals 3 or
7 more, the court shall revoke the person's operating privilege for not less than 2 years
8 nor more than 3 years. After the first 90 days of the revocation period or, if the
9 revocation period is for more than one year, and the total number of convictions,
10 suspensions, and revocations counted under this subdivision within a 5-year period ^{any}
11 equals 2, after one year of the revocation period has elapsed, the person is eligible
12 for an occupational license under s. 343.10 if he or she has completed the assessment
13 and is complying with the driver safety plan ordered under par. (c).

14 **SECTION 3417m.** 343.301 of the statutes is created to read:

15 **343.301 Installation of ignition interlock device or immobilization of**
16 **a motor vehicle.** (1) IGNITION INTERLOCK. (a) 1. Except as provided in subd. 2., if
17 a person improperly refuses to take a test under s. 343.305 or violates s. 346.63 (1)
18 or (2), 940.09 (1), or 940.25, and the person has a total of one or more prior
19 convictions, suspensions, or revocations, counting convictions under ss. 940.09 (1)
20 and 940.25 in the person's lifetime and other convictions, suspensions, and
21 revocations counted under s. 343.307 (1), the court may order that the person's
22 operating privilege for the operation of "Class D" vehicles be restricted to operating
23 "Class D" vehicles that are equipped with an ignition interlock device.

24 2. If a person improperly refuses to take a test under s. 343.305 or violates s.
25 346.63 (1) or (2), 940.09 (1), or 940.25, and the person has a total of one or more prior

1 convictions, suspensions, and revocations counted under s. 343.307 (1) within a
2 5-year period, the court shall order that each motor vehicle owned by the person be
3 equipped with an ignition interlock device. This subdivision does not apply if the
4 court orders the immobilization of each motor vehicle owned by the person under sub.
5 (2) (a) 2. or, if the person has 2 or more prior convictions, suspensions, or revocations
6 for purposes of this subdivision, the court orders seizure and forfeiture under s.
7 346.65 (6).

8 (b) 1. The court may restrict the operating privilege restriction under par. (a)
9 1. for a period of not less than one year nor more than the maximum operating
10 privilege revocation period permitted for the refusal or violation.

11 2. The court shall order the installation of an ignition interlock device under
12 par. (a) 2. for a period of not less than one year nor more than the maximum operating
13 privilege revocation period permitted for the refusal or violation, beginning one year
14 after the operating privilege revocation period begins.

15 (c) If the court enters an order under par. (a), the person shall be liable for the
16 reasonable cost of equipping and maintaining any ignition interlock device installed
17 in a motor vehicle.

18 (d) A person to whom an order under par. (a) applies violates that order if he
19 or she requests or permits another to blow into an ignition interlock device or to start
20 a motor vehicle equipped with an ignition interlock device for the purpose of
21 providing the person an operable motor vehicle without the necessity of first
22 submitting a sample of his or her breath to analysis by the ignition interlock device.

23 (2) IMMOBILIZATION. (a) 1. Except as provided in subd. 2, if a person improperly
24 refuses to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or
25 940.25, and the person has a total of one or more prior convictions, suspensions, or

1 revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's
2 lifetime and other convictions, suspensions, and revocations counted under s.
3 343.307 (1), the court may order that the motor vehicle used during the refusal or
4 violation and owned by the person be immobilized.

5 2. If a person improperly refuses to take a test under s. 343.305 or violates s.
6 346.63 (1) or (2), 940.09 (1), or 940.25, and the person has a total of one or more prior
7 convictions, suspensions, and revocations counted under s. 343.307 (1) within a
8 5-year period, the court shall order that each vehicle owned by the person be
9 immobilized. This subdivision does not apply if the court orders the installation of
10 an ignition interlock device in each motor vehicle owned by the person under sub. (1)
11 (a) 2. or, if the person has 2 or more prior convictions, suspensions, or revocations for
12 purposes of this subdivision, the court orders seizure and forfeiture under s. 346.65
13 (6).

14 (b) 1. The court may order the immobilization under par. (a) 1. for a period of
15 not less than one year nor more than the maximum operating privilege revocation
16 period permitted for refusal or violation.

17 2. The court shall order the immobilization under par. (a) 2. for a period of not
18 less than one year nor more than the maximum operating privilege revocation period
19 permitted for the refusal or violation, beginning on the first day of the operating
20 privilege revocation period.

21 (c) If the court orders that a motor vehicle be immobilized under par. (a), the
22 person shall be liable for the reasonable cost of equipping and maintaining any
23 immobilization device installed on the motor vehicle.

24 (d) The court shall notify the department, in a form and manner prescribed by
25 the department, that an order to immobilize a motor vehicle has been entered. The

1 registration records of the department shall reflect that the order has been entered
2 against the motor vehicle and remains unexecuted. Any law enforcement officer may
3 execute that order based on the information provided by the department. The law
4 enforcement agency shall notify the department when an order has been executed
5 under this paragraph, and the department shall amend its vehicle registration
6 records to reflect that notification.

7 (e) Within 10 days after immobilizing a motor vehicle under par. (d), the law
8 enforcement agency that immobilized the motor vehicle shall provide notice of the
9 immobilization to all lienholders of record. The notice shall set forth the year, make,
10 model, and vehicle identification number of the motor vehicle, where the motor
11 vehicle is located and the reason for the immobilization.

12 **SECTION 3418m.** 343.301 (1) (a) 1. of the statutes, as created by 2001 Wisconsin
13 Act (this act), is amended to read:

14 343.301 (1) (a) 1. Except as provided in subd. 2., if a person improperly refuses
15 to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25,
16 and the person has a total of one or more prior convictions, suspensions, or
17 revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's
18 lifetime and other convictions, suspensions, and revocations counted under s.
19 343.307 (1), the court may order that the person's operating privilege for the
20 operation of "Class D" vehicles be restricted to operating "Class D" vehicles that are
21 each motor vehicle owned by the person be equipped with an ignition interlock
22 device. This subdivision does not apply if the court orders the immobilization of each
23 motor vehicle owned by the person under sub. (2) (a) 1. or, if the person has 2 or more
24 prior convictions, suspensions, or revocations for purposes of this subdivision, the
25 court orders seizure and forfeiture under s. 346.65 (6).

1 **SECTION 3419m.** 343.301 (1) (b) 1. of the statutes, as created by 2001 Wisconsin
2 Act ... (this act), is amended to read:

3 343.301 (1) (b) 1. The court may ~~restricit the operating privilege restriction~~
4 order the installation of an ignition interlock device under par. (a) 1. for a period of
5 not less than one year nor more than the maximum operating privilege revocation
6 period permitted for the refusal or violation.

7 **SECTION 3420m.** 343.301 (2) (a) 1. of the statutes, as created by 2001 Wisconsin
8 Act (this act), is amended to read:

9 343.301 (2) (a) 1. Except as provided in subd. 2, if a person improperly refuses
10 to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25,
11 and the person has a total of one or more prior convictions, suspensions, or
12 revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's
13 lifetime and other convictions, suspensions, and revocations counted under s.
14 343.307 (1), the court may order that ~~the motor vehicle used during the refusal or~~
15 violation and each motor vehicle owned by the person be immobilized. This
16 subdivision does not apply if the court orders the installation of an ignition interlock
17 device in each motor vehicle owned by the person under sub. (1) (a) 1. or, if the person
18 has 2 or more prior convictions, suspensions, or revocations for purposes of this
19 subdivision, the court orders seizure and forfeiture under s. 346.65 (6).

20 **SECTION 3421m.** 343.305 (10) (b) 3. of the statutes is amended to read:

21 343.305 (10) (b) 3. Except as provided in subd. 4m., if the number of convictions
22 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
23 convictions, suspensions, and revocations counted under s. 343.307 (2) within a
24 10-year period, equals 2, the court shall revoke the person's operating privilege for
25 2 years. After the first 90 days of the revocation period ~~or, if the revocation period~~

① ~~is for more than one year and~~ the total number of convictions, suspensions, and
② ~~revocations counted under this subdivision within a~~ 5-year period equals 2, after one
3 ~~year of the revocation period has elapsed~~, the person is eligible for an occupational
4 license under s. 343.10 if he or she has completed the assessment and is complying
5 with the driver safety plan.

6 **SECTION 3422m.** 343.305 (10) (b) 4. of the statutes is amended to read:

7 343.305 (10) (b) 4. Except as provided in subd. 4m., if the number of convictions
8 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of other
9 convictions, suspensions, and revocations counted under s. 343.307 (2) within a
10 10-year period, equals 2, the court shall revoke the person's operating privilege for
⑪ 2 years. After the first 90 days of the revocation period ~~or, if the revocation period~~
⑫ ~~is for more than one year, and~~ the total number of convictions, suspensions, and
⑬ ~~revocations counted under this subdivision within a~~ 5-year period equals 2, after one
14 ~~year of the revocation period has elapsed~~, the person is eligible for an occupational
15 license under s. 343.10 if he or she has completed the assessment and is complying
16 with the driver safety plan.

17 **SECTION 3423g.** 343.305 (10m) of the statutes is renumbered 343.305 (10m) (a)
18 and amended to read:

19 343.305 (10m) (a) ~~If~~ Except as provided in par. (b), if the person whose
20 operating privilege is revoked under sub. (10) has 2 or more prior convictions,
21 suspensions, or revocations, as counted under s. 343.307 (1), ~~the procedure under s.~~
22 ~~346.65 (6) shall be followed regarding the immobilization or seizure and forfeiture~~
23 ~~of a motor vehicle owned by the person or the equipping of a motor vehicle owned by~~
24 ~~the person with an ignition interlock device~~ the court shall follow the procedure
25 under s. 343.301 if the court orders the immobilization of the motor vehicle used in

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1 the improper refusal and owned by the person or if the court requires that the
2 person's operating privilege for the operation of "Class D" vehicles be restricted to
3 operating "Class D" vehicles equipped with an ignition interlock device. If the
4 number of convictions under ss. 940.09 (1) and 940.25 in the lifetime of the person
5 whose operating privilege is revoked under sub. (10), plus the total number of other
6 convictions, suspensions, and revocations counted under s. 343.307 (1), equals 2 or
7 more, the procedure under s. 346.65 (6) shall be followed if the court orders the
8 seizure and forfeiture of the motor vehicle used in the improper refusal and owned
9 by the person.

10 **SECTION 3423j.** 343.305 (10m) (a) of the statutes, as affected by 2001 Wisconsin
11 Act (this act), is amended to read:

12 343.305 (10m) (a) Except as provided in par. (b), if the person whose operating
13 privilege is revoked under sub. (10) has 2 or more prior convictions, suspensions, or
14 revocations, as counted under s. 343.307 (1), the court shall follow the procedure
15 under s. 343.301 if the court orders the immobilization of the each motor vehicle used
16 ~~in the improper refusal and owned by the person or if the court requires that the~~
17 ~~person's operating privilege for the operation of "Class D" vehicles be restricted to~~
18 ~~operating "Class D" vehicles~~ each motor vehicle owned by the person be equipped
19 with an ignition interlock device. If the number of convictions under ss. 940.09 (1)
20 and 940.25 in the lifetime of the person whose operating privilege is revoked under
21 sub. (10), plus the total number of other convictions, suspensions, and revocations
22 counted under s. 343.307 (1), equals 2 or more, the procedure under s. 346.65 (6) shall
23 be followed if the court orders the seizure and forfeiture of the motor vehicle used in
24 the improper refusal and owned by the person.

25 **SECTION 3423k.** 343.305 (10m) (b) of the statutes is created to read:

343.305 (10m) (b) If the person whose operating privilege is revoked under sub. (10) has one or more prior convictions, suspensions, or revocations, as counted under s. 343.307 (1) within a 5-year period, the court shall follow the procedure under s. 343.301 if the court orders the immobilization of each motor vehicle owned by the person or if the court requires that each motor vehicle owned by the person be equipped with an ignition interlock device. If the number of convictions under ss. 940.09 (1) and 940.25 in the lifetime of the person whose operating privilege is revoked under sub. (10), plus the total number of other convictions, suspensions, and revocations counted under s. 343.307 (1), equals 2 or more, the procedure under s. 346.65 (6) shall be followed if the court orders the seizure and forfeiture of the motor vehicle used in the improper refusal and owned by the person.

SECTION 3425m. 343.31 (3) (bm) 3. of the statutes is amended to read:

343.31 (3) (bm) 3. Except as provided in subd. 4m., if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307 (1) within a 10-year period, equals 2, the department shall revoke the person's operating privilege for not less than one year nor more than 18 months. If an Indian tribal court in this state revokes the person's privilege to operate a motor vehicle on tribal lands for not less than one year nor more than 18 months for the conviction specified in par. (bm) (intro.), the department shall impose the same period of revocation. After the first 60 days of the revocation period or, if the revocation period is for more than one year, and the total number of convictions, suspensions, and revocations counted under this subdivision within a 5-year period equals 2, after one year of the revocation period has elapsed, the person is eligible for an occupational license under s. 343.10".

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1 **4.** Page 1547, line 19: delete the material beginning with that line and ending
2 with page 1548, line 7, and substitute:

3 **"SECTION 3426m.** 343.31 (3m) (a) of the statutes is amended to read:

4 343.31 (3m) (a) Any person who has his or her operating privilege revoked
5 under sub. (3) (c) or (f) is eligible for an occupational license under s. 343.10 after the
6 first 120 days of the revocation period, ~~except that if a person has one or more prior~~
any 7 convictions, suspensions, or revocations for any offense that is counted under s.

8 343.307 (1) within a 5-year period, the person is eligible for an occupational license
9 under s. 343.10 after one year of the revocation period has elapsed. equals 2

10 **SECTION 3427m.** 343.31 (3m) (b) of the statutes is amended to read:

11 343.31 (3m) (b) Any person who has his or her operating privilege revoked
12 under sub. (3) (e) is eligible for an occupational license under s. 343.10 after the first
13 60 days of the revocation period, ~~except that if a person has one or more prior~~
14 convictions, suspensions, or revocations for any offense that is counted under s.

15 343.307 (1) within a 5-year period, the person is eligible for an occupational license
16 under s. 343.10 after one year of the revocation period has elapsed." equals 2

17 **5.** Page 1555, line 16: delete the material beginning with that line and ending
18 with page 1556, line 4, and substitute:

19 **"SECTION 3443k.** 346.65 (6) (a) 1. of the statutes is amended to read:

20 346.65 (6) (a) 1. ~~The~~ court may order a law enforcement officer to seize the
21 motor vehicle used in the violation or improper refusal and owned by the person, or,
22 if the motor vehicle is not ordered seized, shall order a law enforcement officer to
23 equip the motor vehicle with an ignition interlock device or immobilize any motor
24 vehicle owned by the person, whose operating privilege is revoked under s. 343.305

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- Except as provided in s. 343.301,
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as affected by 2001 Wisconsin
Act... (this act),

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1 (10) or who committed a violation of s. 346.63 (1) (a), or (b) or (2) (a) 1. or 2., 940.09
2 (1) (a) ~~or~~, (b), (c), or (d), or 940.25 (1) (a), (b), (c), or (d) if the person whose operating
3 privilege is revoked under s. 343.305 (10) or who is convicted of the violation has 2
4 or more prior suspensions, revocations, or convictions, counting convictions under ss.
5 940.09 (1) and 940.25 in the person's lifetime, plus other convictions, suspensions,
6 or revocations counted under s. 343.307 (1). The court may not order a motor vehicle
7 seized, ~~equipped with an ignition interlock device or immobilized if that~~ if the court
8 enters an order under s. 343.301 to immobilize the motor vehicle or equip the motor
9 vehicle with an ignition interlock device or if seizure would result in undue hardship
10 or extreme inconvenience or would endanger the health and safety of a person.

11 **SECTION 3443kb.** 346.65 (6) (a) 2m. of the statutes is amended to read:
12 346.65 (6) (a) 2m. A person who owns a motor vehicle subject to seizure,
13 ~~equipping with an ignition interlock device or immobilization under this paragraph~~
14 shall surrender to the clerk of circuit court the certificate of title issued under ch. 342
15 for ~~every the~~ the motor vehicle owned by the person that is subject to seizure. The person
16 shall comply with this subdivision within 5 working days after receiving notification
17 of this requirement from the district attorney. When a district attorney receives a
18 copy of a notice of intent to revoke the operating privilege under s. 343.305 (9) (a) of
19 a person who has 2 or more prior convictions, suspensions, or revocations, as
20 counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus
21 other convictions, suspensions, or revocations counted under s. 343.307 (1), or when
22 a district attorney notifies the department of the filing of a criminal complaint
23 against a person under s. 342.12 (4) (a), the district attorney shall notify the person
24 of the requirement to surrender ~~all certificates~~ the certificate of title to the clerk of
25 circuit court. The notification shall include the time limits for that surrender, the

1 penalty for failure to comply with the requirement, and the address of the clerk of
2 circuit court. The clerk of circuit court shall promptly return each the certificate of
3 title surrendered to the clerk of circuit court under this subdivision after stamping
4 the certificate of title with the notation "Per section 346.65 (6) of the Wisconsin
5 statutes, ownership of this motor vehicle may not be transferred without prior court
6 approval". Any person failing to surrender a certificate of title as required under
7 this subdivision shall forfeit not more than \$500.

8 **SECTION 3443kd.** 346.65 (6) (a) 3. of the statutes is amended to read:

9 346.65 (6) (a) 3. The court shall notify the department, in a form and manner
10 prescribed by the department, that an order to equip a motor vehicle with an ignition
11 interlock device, to immobilize a motor vehicle or to seize a motor vehicle has been
12 entered. The registration records of the department shall reflect that the order has
13 been entered against the motor vehicle and remains unexecuted. Any law
14 enforcement officer may execute that order and shall transfer any motor vehicle
15 ordered seized to the law enforcement agency that was originally ordered to seize the
16 motor vehicle based on the information provided by the department. The law
17 enforcement agency shall notify the department when an order has been executed
18 under this subdivision and the department shall amend its vehicle registration
19 records to reflect that notification.

20 **SECTION 3443kg.** 346.65 (6) (b) of the statutes is amended to read:

21 346.65 (6) (b) Within 10 days after seizing or immobilizing a motor vehicle
22 under par. (a), the law enforcement agency that seized or immobilized the motor
23 vehicle shall provide notice of the seizure or immobilization by certified mail to the
24 owner of the motor vehicle and to all lienholders of record. The notice shall set forth
25 the year, make, model, and serial number of the motor vehicle, where the motor

vehicle is located, the reason for the seizure or immobilization, and the forfeiture procedure if the motor vehicle was seized. When a motor vehicle is seized under this section, the law enforcement agency that seized the motor vehicle shall place the motor vehicle in a secure place subject to the order of the court.

SECTION 3443kj. 346.65 (6) (k) of the statutes is amended to read:

346.65 (6) (k) Except as provided in par. (km), no person may transfer ownership of any motor vehicle that is subject to immobilization or seizure or to equipping with an ignition interlock device under this subsection or make application for a new certificate of title under s. 342.18 for the motor vehicle unless the court determines that the transfer is in good faith and not for the purpose of or with the effect of defeating the purposes of this subsection. The department may cancel a title or refuse to issue a new certificate of title in the name of the transferee as owner to any person who violates this paragraph.

SECTION 3443km. 346.65 (6) (m) of the statutes is repealed.”.

6. Page 1556, line 17: after that line insert:

as affected by 2001 Wisconsin Act.... (this act),

SECTION 3445g. 347.413 (1) of the statutes is amended to read:

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347.413 (1) No person may remove, disconnect, tamper with, or otherwise circumvent the operation of an ignition interlock device installed in response to the ~~343.301 (2) or~~ court order under s. 346.65 (6), ~~1997 stats., or s. 343.301 (2)~~. This subsection does not apply to the removal of an ignition interlock device upon the expiration of the order requiring the motor vehicle to be so equipped or to necessary repairs to a malfunctioning ignition interlock device by a person authorized by the department.

~~**SECTION 3445gm.** 347.413 (2) of the statutes is repealed~~

SECTION 3445j. 347.417 (1) of the statutes is amended to read:

as affected by 2001 Wisconsin Act.... (this act),

3445j

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~~343.301 (2) or~~

1 347.417 (1) No person may remove, disconnect, tamper with, or otherwise
2 circumvent the operation of any immobilization device installed in response to a ¹⁹⁹⁹
3 court order under s. 346.65 (6), ~~1997 stats., or s. 343.301 (2)~~. This subsection does underscore this.
4 not apply to the removal of an immobilization device pursuant to a court order or to
5 necessary repairs to a malfunctioning immobilization device. ^{as affected by 2001 Wisconsin Act....}

6 SECTION ~~3445g~~. 347.417 (2) of the statutes is amended to read: ^{(this act),}

7 ^{3445m} 347.417 (2) The department shall design a warning label which shall be affixed

8 by the owner of each immobilization device before the device is used to immobilize

9 any motor vehicle under s. ~~346.65 (6) 343.301 (2)~~. The label shall provide notice of
10 the penalties for removing, ^{plain} ~~disconnecting, tampering with, or otherwise~~
11 circumventing the operation of the immobilization device.”

~~343.301 (2) or~~

12 7. Page 1690, line 3: delete lines 3 to 20 and substitute:

13 “SECTION 3937j. 940.09 (1d) of the statutes is renumbered 940.09 (1d) (b) and
14 amended to read:

15 940.09 (1d) (b) If the person who committed an offense under sub. (1) (a), (b),
16 (c), or (d) has 2 or more prior convictions, suspensions, or revocations, as counting
17 convictions under sub. (1) and s. 940.25 in the person's lifetime, plus other
18 convictions, suspensions, or revocations counted under s. 343.307 (1), the procedure
19 under s. 346.65 (6) may shall be followed regarding the immobilization or if the court
20 orders the seizure and forfeiture of a motor vehicle owned by the person who
21 committed the offense or the equipping of a motor vehicle owned by the person with
22 an ignition interlock device.

23 SECTION ~~3937k~~. 940.09 (1d) (a) of the statutes is created to read:

1.

Insert I ✓

3937n

Insert JV

1 940.09 (1d) (a) 1. Except as provided in subd. 2., if a person who committed an
2 offense under sub. (1) (a), (b), (c), or (d) has 2 or more prior convictions, suspensions,
3 or revocations, counting convictions under sub. (1) and s. 940.25 in the person's
4 lifetime, plus other convictions, suspensions, or revocations counted under s. 343.307
5 (1), the procedure under s. 343.301 shall be followed if the court orders that the
6 person's operating privilege for the operation of "Class D" vehicles be restricted to
7 operating "Class D" vehicles that are equipped with an ignition interlock device or
8 if the court orders that the motor vehicle used during the refusal or violation and
9 owned by the person be immobilized.

10 2. If a person who committed an offense under sub. (1) (a), (b), (c), or (d) has 2
11 or more prior convictions, suspensions, or revocations counted under s. 343.307 (1)
12 within a 5-year period, the procedure under s. 343.301 shall be followed if the court
13 orders the installation of an ignition interlock device in each motor vehicle owned by
14 the person or if the court orders that each motor vehicle owned by the person be
15 immobilized.

16 **SECTION 3937m.** 940.09 (1d) (a) 1. of the statutes, as created by 2001 Wisconsin
17 Act (this act), is amended to read:

18 940.09 (1d) (a) 1. Except as provided in subd. 2., if a person who committed an
19 offense under sub. (1) (a), (b), (c), or (d) has 2 or more prior convictions, suspensions,
20 or revocations, counting convictions under sub. (1) and s. 940.25 in the person's
21 lifetime, plus other convictions, suspensions, or revocations counted under s. 343.307
22 (1), the procedure under s. 343.301 shall be followed if the court orders that the
23 person's operating privilege for the operation of "Class D" vehicles be restricted to
24 operating "Class D" vehicles that are equipped with the installation of an ignition
25 interlock device in each motor vehicle owned by the person or if the court orders that

Insert K ✓

1 ~~the each motor vehicle used during the refusal or violation and owned by the person~~
2 ~~be immobilized~~

3 **SECTION 3938j.** 940.25 (1d) of the statutes is renumbered 940.25 (1d) (b) and
4 amended to read:

5 940.25 (1d) (b) If the person who committed the offense under sub. (1) (a), (b),
6 (c), or (d) has 2 or more prior convictions, suspensions, or revocations, as counting
7 convictions under this section and s. 940.09 (1) in the person's lifetime, plus other
8 convictions, suspensions, or revocations counted under s. 343.307 (1), the procedure
9 under s. 346.65 (6) ~~may shall~~ be followed regarding the immobilization or if the court
10 orders the seizure and forfeiture of a motor vehicle owned by the person who
11 committed the offense or the equipping of a motor vehicle owned by the person with
12 an ignition interlock device.

13 **SECTION 3938h.** 940.25 (1d) (a) of the statutes is created to read: 1.

14 940.25 (1d) (a) 1. Except as provided in subd. 2., if a person who committed an
15 offense under sub. (1) (a), (b), (c), or (d) has 2 or more prior convictions, suspensions,
16 or revocations, counting convictions under sub. (1) and s. 940.09 (1) in the person's
17 lifetime, plus other convictions, suspensions, or revocations counted under s. 343.307
18 (1), the procedure under s. 343.301 shall be followed if the court orders that the
19 person's operating privilege for the operation of "Class D" vehicles be restricted to
20 operating "Class D" vehicles that are equipped with an ignition interlock device or
21 if the court orders that the motor vehicle used during the refusal or violation and
22 owned by the person be immobilized.

23 2. If a person who committed an offense under sub. (1) (a), (b), (c), or (d) has 2
24 or more prior convictions, suspensions, or revocations counted under s. 343.307 (1)
25 within a 5-year period, the procedure under s. 343.301 shall be followed if the court

Insert L

orders the installation of an ignition interlock device in each motor vehicle owned by the person or if the court orders that each motor vehicle owned by the person be immobilized.

SECTION 3938m. 940.25 (1d) (a) 1. of the statutes, as created by 2001 Wisconsin Act (this act), is amended to read:

940.25 (1d) (a) 1. Except as provided in subd. 2., if a person who committed an offense under sub. (1) (a), (b), (c), or (d) has 2 or more prior convictions, suspensions, or revocations, counting convictions under sub. (1) and s. 940.09 (1) in the person's lifetime, plus other convictions, suspensions, or revocations counted under s. 343.307 (1), the procedure under s. 343.301 shall be followed if the court orders that the person's operating privilege for the operation of "Class D" vehicles be restricted to operating "Class D" vehicles that are equipped with the installation of an ignition interlock device in each vehicle owned by the person or if the court orders that the each motor vehicle used during the refusal or violation and owned by the person be immobilized."

8. Page 1722, line 21: after that line insert:

~~SECTION 4060gb. 1999 Wisconsin Act 109, section 16m is repealed.~~

~~SECTION 4060gd. 1999 Wisconsin Act 109, section 16p is repealed.~~

~~SECTION 4060gf. 1999 Wisconsin Act 109, section 16r is repealed.~~

SECTION 4060gg. 1999 Wisconsin Act 109, section 17 is repealed.

SECTION 4060gj. 1999 Wisconsin Act 109, section 26 is repealed.

SECTION 4060gk. 1999 Wisconsin Act 109, section 38 is repealed.

SECTION 4060gm. 1999 Wisconsin Act 109, section 56j is repealed.

~~SECTION 4060gp. 1999 Wisconsin Act 109, section 58 is repealed.~~

① ~~SECTION 4060gr. 1999 Wisconsin Act 109, section 59 is repealed.~~

② ~~SECTION 4060gt. 1999 Wisconsin Act 109, section 60 is repealed.~~

③ ~~SECTION 4060gy. 1999 Wisconsin Act 109, section 62d is repealed.~~

④ ~~SECTION 4060hb. 1999 Wisconsin Act 109, section 62h is repealed.~~

5 SECTION 4060hd. 1999 Wisconsin Act 109, section 70 is repealed.

⑥ ~~SECTION 4060hf. 1999 Wisconsin Act 109, section 71 is repealed.~~

7 SECTION 4060hg. 1999 Wisconsin Act 109, section 72 is repealed.

8 SECTION 4060hj. 1999 Wisconsin Act 109, section 73 is repealed.

9 SECTION 4060hk. 1999 Wisconsin Act 109, section 84 is repealed.

10 SECTION 4060hm. 1999 Wisconsin Act 109, section 85 is repealed.

11 SECTION 4060hp. 1999 Wisconsin Act 109, section 86 is repealed.

12 SECTION 4060hr. 1999 Wisconsin Act 109, section 87 is repealed.

13 SECTION 4060ht. 1999 Wisconsin Act 109, section 88 (2) is amended to read:

14 [1999 Wisconsin Act 109] Section 88 (2) The department of transportation and
15 the department of health and family services shall study jointly and evaluate the
16 effectiveness of using ignition interlock devices and vehicle immobilization as
17 methods of reducing the prevalence of drunk driving and the recidivism of
18 drunk-driving offenders. The departments shall consult with the counties, the law
19 enforcement agencies, the courts, and the providers of services to alcohol abusers
20 regarding this study and evaluation. No later than the first day of the 24th month
21 beginning after the effective date of section 343.301 of the statutes, as created in this
22 act January 1, 2004, the department shall submit a report to the legislature in the
23 manner provided under section 13.172 (2) of the statutes that contains the
24 conclusions of the departments' study and evaluation and any recommendations
25 concerning implementation of the conclusions.

Action: Act amend
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 2.

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SECTION 4060hw. 1999 Wisconsin Act 109, section 90 (3) is ~~repealed~~SECTION 4060hy. 1999 Wisconsin Act 109, section 91 (2) is ~~repealed~~

amended to read:
 is amended to read:
 AM3

9. Page 1810, line 16: delete lines 16 to 23 and substitute:

“(7kk) IMMOBILIZATION AND IGNITION INTERLOCK DEVICES.”

343.10 (5) (a) 3.,
 343.301, 343.305

(a) The treatment of sections 346.65 (6) (a) 1. ~~2nd and 3rd~~ and (m), (10m),
 347.413 (1) ~~and (2)~~, and 347.417 (1) and (2) of the statutes, the renumbering and
 amendment of sections ~~343.305 (10m)~~ 940.09 (1d) and 940.25 (1d) of the statutes,
 and the creation of sections ~~343.301, 343.305 (10m)~~ 940.09 (1d) (a) and 940.25
 (1d) (a) of the statutes first apply to violations committed or refusals occurring on the
 effective date of this paragraph but does not preclude the counting of other
 convictions, suspensions, or revocations as prior convictions, suspensions, or
 revocations for purposes of administrative action by the department of
 transportation, sentencing by a court, or revocation or suspension of motor vehicle
 operating privileges.

(b) The treatment of sections ~~343.12 (4) (a), (b), and (c) 1 (intro), 343.10 (5) (a)~~
~~343.301 (1) (a) 1. (by SECTION 3418m) and (b) 1. (by SECTION 3419m), and (2) (a)~~
~~1. (by SECTION 3420m), 343.305 (10m) (a) (by SECTION 3423j), 940.09 (1d) (a) 1. (by~~
~~SECTION 3937m) and 940.25 (1d) (a) 1. (by SECTION 3938m)~~ of the statutes first
 (19) ~~applies~~ ^{apply} to violations committed or refusals occurring on the effective date of this
 paragraph but does not preclude the counting of other convictions, suspensions, or
 revocations as prior convictions, suspensions, or revocations for purposes of
 administrative action by the department of transportation, sentencing by a court, or
 revocation or suspension of motor vehicle operating privileges.”

Insert O

1 **10.** Page 1826, line 6: delete “January 1, 2002” and substitute “September 30,
2 2001”.

3 **11.** Page 1826, line 7: delete lines 7 to 10 and substitute:

4 “(9kk) IMMOBILIZATION AND IGNITION INTERLOCK DEVICES

5 (a) The treatment of sections ~~346.65 (6) (a) 1., 2m, and 3.46(k)~~ and (m),
6 347.413 (1) ~~and 11m~~, and 347.417 (1) and (2) of the statutes, the renumbering and
7 amendment of sections ~~343.305 (10m)~~, 940.09 (1d) and 940.25 (1d) of the statutes,
8 and the creation of sections ~~343.301, 343.305 (10m)~~ 940.09 (1d) (a) and 940.25
9 (1d) (a) of the statutes and SECTION 9352 (7kk) (a) of this act take effect on September
10 30, 2001.

11 (b) The treatment of sections ~~343.12 (4) (a), (b), and (c) 1. (intro.), 343.10 (5) (a)~~
12 ~~3., 343.301 (1) (a) 1. (by SECTION 3418m) and (b) 1. (by SECTION 3419m) and (2) (a)~~
13 ~~1. (by SECTION 3420m), 343.305 (10m) (a) (by SECTION 3423j), 940.09 (1d) (a) 1. (by~~
14 ~~SECTION 3937m), and 940.25 (1d) (a) 1. (by SECTION 3938m)~~ of the statutes and
15 SECTION 9352 (7kk) (b) of this act take effect on January 1, 2002.”.

16 (END)

Insert ○

**2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0493/2ins
PJH&TNF:wlj:kjf

INSERT A

3409f ✓

SECTION 343.10 (5) (a) 3. of the statutes is amended to read:

343.10 (5) (a) 3. If the applicant has 2 or more prior convictions, suspensions or revocations, as counted under s. 343.307 (1), the occupational license of the applicant shall restrict the applicant's operation under the occupational license to vehicles that are equipped with a functioning ignition interlock device if the court has ordered under s. 346.65 (6) (a) 1. ~~or~~ 343.301 (1) ^{or} that a motor vehicle owned by the person be equipped with an ignition interlock device. A person to whom a restriction under this subdivision applies violates that restriction if he or she requests or permits another to blow into an ignition interlock device or to start a motor vehicle equipped with an ignition interlock device for the purpose of providing the person an operable motor vehicle without the necessity of first submitting a sample of his or her breath to analysis by the ignition interlock device. If the occupational license restricts the applicant's operation to a vehicle that is equipped with an ignition interlock device, the applicant shall be liable for the reasonable costs of equipping the vehicle with the ignition interlock device.

INSERT B:

SECTION 3417m. 343.301 of the statutes is created to read:

343.301 Installation of ignition interlock device or immobilization of a motor vehicle. (1) IGNITION INTERLOCK. (a) If a person improperly refuses to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1) or 940.25, and the person has a total of one or more ^{any} prior convictions, suspensions, or revocations, counted under s. 343.307 (1) within a 5-year period, the court shall order that the

1 person's operating privilege for the operation of "Class D" vehicles be restricted to
2 operating vehicles that are equipped with an ignition interlock device and shall order
3 that each motor vehicle owned by the person be equipped with an ignition interlock
4 device. This paragraph does not apply if the court orders the immobilization of each
5 motor vehicle owned by the person under sub. (2) or, if the person has 2 or more prior
6 convictions, suspensions, or revocations for purposes of this subsection, to any motor vehicle that the court orders to be seized and forfeited under s. 346.65 (6). the paragraph

8 (b) The court shall order the operating privilege restriction and the installation
9 of an ignition interlock device under par. (a) for a period of not less than one year nor
10 more than the maximum operating privilege revocation period permitted for the
11 refusal or violation, beginning one year after the operating privilege revocation
12 period begins.

13 (c) If the court restricts the person's operating privilege under par. (a), the
14 person shall be liable for the reasonable cost of equipping and maintaining any
15 ignition interlock device installed in his or her motor vehicle.

16 (d) A person to whom an order under par. (a) applies violates that order if he
17 or she requests or permits another to blow into an ignition interlock device or to start
18 a motor vehicle equipped with an ignition interlock device for the purpose of
19 providing the person an operable motor vehicle without the necessity of first
20 submitting a sample of his or her breath to analysis by the ignition interlock device.

21 (e) The court may not order a motor vehicle equipped with an ignition interlock
22 device if that would result in undue hardship or extreme inconvenience or would
23 endanger the health and safety of a person.

24 (2) IMMOBILIZATION. (a) If a person improperly refuses to take a test under s.
25 343.305 or violates s. 346.63 (1) or (2), 940.09 (1) or 940.25, and the person has a total

Paragraph

① of ~~one~~² or more ~~five~~ convictions, suspensions or revocations counted under s. 343.307

② (1) ~~during a~~ 5-year period, the court shall order that each motor vehicle owned by

3 the person be immobilized. This paragraph does not apply if the court orders the

4 within any operating privilege restriction and the installation of an ignition interlock device in

5 each motor vehicle owned by the person under sub. (1) or, if the person has 2 or more

⑥ prior convictions, suspensions, or revocations for purposes of this subsection, to ~~any~~

7 motor vehicle that the court orders to be seized and forfeited under s. 346.65 (6). ^{the}

8 (b) The court shall order the immobilization under par. (a) for a period of not

9 less than one year nor more than the maximum operating privilege revocation period

10 permitted for the refusal or violation, beginning on the first day of the operating

11 privilege revocation period.

12 (c) If the court orders that the person's motor vehicle be immobilized, the person

13 shall be liable for the reasonable cost of equipping and maintaining any

14 immobilization device installed on his or her motor vehicle.

15 (d) The court shall notify the department, in a form and manner prescribed by

16 the department, that an order to immobilize a motor vehicle has been entered. The

17 registration records of the department shall reflect that the order has been entered

18 against the motor vehicle and remains unexecuted. Any law enforcement officer may

19 execute that order based on the information provided by the department. The law

20 enforcement agency shall notify the department when an order has been executed

21 under this paragraph and the department shall amend its vehicle registration

22 records to reflect that notification.

23 (e) Within 10 days after immobilizing a motor vehicle under par. (d), the law

24 enforcement agency that immobilized the vehicle shall provide notice of the

25 immobilization to all lienholders of record. The notice shall set forth the year, make,

1 model[✓] and vehicle identification number of the motor vehicle, where the motor
2 vehicle is located and the reason for the immobilization.

3 (f) The court may not order a motor vehicle immobilized if that would result in
4 undue hardship or extreme inconvenience or would endanger the health and safety
5 of a person.

6 **SECTION 3418m.** 343.301 (1) (a) of the statutes, as created by 2001 Wisconsin
7 Act ~~343.301~~ (this act), is renumbered 343.301 (1) (a) 2. and ~~is~~ amended to read:

8 343.301 (1) ~~IGNITION INTERLOCK~~ (a) 2. If a person improperly refuses to take
9 a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and the
10 person has a total of ~~one~~ or more ~~prior~~ convictions, suspensions, or revocations,
11 counted under s. 343.307 (1) within a 5-year period, the court shall order that the
12 person's operating privilege for the operation of "Class D" vehicles be restricted to
13 operating vehicles that are equipped with an ignition interlock device and shall order
14 that each motor vehicle owned by the person be equipped with an ignition interlock
15 device. This paragraph does not apply if the court orders the immobilization of each
16 motor vehicle owned by the person under sub. (2) (a) 2. or, if the person has 2 or more
17 prior convictions, suspensions, or revocations for purposes of this subsection, to ~~any~~ ^{the}
18 motor vehicle that the court orders to be seized and forfeited under s. 346.65 (6).

19 **SECTION 3418m.** 343.301 (1) (b) of the statutes, as created by 2001 Wisconsin
20 Act ~~343.301~~ (this act), is renumbered 343.301 (1) (b) 2. and ~~is~~ amended to read: 3420m

21 343.301 (1) (b) 2. The court shall order the operating privilege restriction and
22 the installation of an ignition interlock device under par. (a) 2. for a period of not less
23 than one year nor more than the maximum operating privilege revocation period
24 permitted for the refusal or violation, beginning on the first day of the operating
25 privilege revocation period.

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4-18

3419m

1 SECTION ~~3419m~~ 343.301 (1) (a) 1. of the statutes is created to read:

2 343.301 (1) (a) 1. Except as provided in subd. 2., if a person improperly refuses
3 to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1) or 940.25, and
4 the person has a total of one or more prior convictions, suspensions or revocations,
5 counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and
6 other convictions, suspensions and revocations counted under s. 343.307 (1), the
7 court may order that the person's operating privilege for the operation of "Class D"
8 vehicles be restricted to operating "Class D" vehicles that are equipped with an
9 ignition interlock device.

10 3420n SECTION ~~3419m~~ 343.301 (1) (b) 1. of the statutes is created to read:

11 343.301 (1) (b) 1. The court may restrict the operating privilege restriction
12 under par. (a) 1. for a period of not less than one year nor more than the maximum
13 operating privilege revocation period permitted for the refusal or violation.

14 3420p SECTION ~~3419m~~ 343.301 (2) (a) of the statutes, as created by 2001 Wisconsin

15 Act (this act), is renumbered 343.301 (2) (a) 2. and amended to read: (2)

16 343.301 (2) ~~Immobilization~~ (a) 2. If a person improperly refuses to take a test
17 under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1) or 940.25, and the person
18 has a total of ~~one~~ 2 or more ~~prior~~ convictions, suspensions or revocations counted under

within any

19 s. 343.307 (1) ~~during~~ a 5-year period, the court shall order that each motor vehicle
20 owned by the person be immobilized. This paragraph does not apply if the court
21 orders the the operating privilege restriction and the installation of an ignition
22 interlock device in each motor vehicle owned by the person under sub. (1) (a) 1. or,
23 if the person has 2 or more prior convictions, suspensions, or revocations for purposes
24 of this subsection, to any motor vehicle that the court orders to be seized and forfeited
25 under s. 346.65 (6). the

paragraph

1 ^{3420s} SECTION ~~3420s~~ 343.301 (2) (b) of the statutes, as created by 2001 Wisconsin
2 Act ~~(this act)~~, is renumbered 343.301 (2) (b) 2. and ~~is~~ amended to read:
3 343.301 (2) (b) 2. The court shall order the immobilization under par. (a) 2. for
4 a period of not less than one year nor more than the maximum operating privilege
5 revocation period permitted for the refusal or violation, beginning on the first day of
6 the operating privilege revocation period.

7 SECTION ~~3420r~~ 343.301 (2) (a) 1. of the statutes is created to read:
8 ^{3420r} 343.301 (2) (a) 1. Except as provided in subd. 2., if a person improperly refuses
9 to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1) or 940.25, and
10 the person has a total of one or more prior convictions, suspensions, or revocations,
11 counting convictions under ss. 940.09 (1) and 940.25 in the person's lifetime and
12 other convictions, suspensions, and revocations counted under s. 343.307 (1), the
13 court may order that the motor vehicle used during the refusal or violation and
14 owned by the person be immobilized.

15 SECTION ~~3420t~~ 343.301 (2) (b) 1. of the statutes is created to read:
16 ^{3420t} 343.301 (2) (b) 1. The court may order the immobilization under par. (a) 1. for
17 a period of not less than one year nor more than the maximum operating privilege
18 revocation period permitted for the refusal or violation.

19 INSERT C

20 ^{3423g} SECTION ~~3423g~~ 343.305 (10m) of the statutes is amended to read:
21 343.305 (10m) REFUSALS; SEIZURE, IMMOBILIZATION OR IGNITION INTERLOCK OF A
22 MOTOR VEHICLE. If the person whose operating privilege is revoked under sub. (10)
23 has 2 or more prior convictions, suspensions, or revocations, as counted under s.
24 343.307 (1), within a 5-year period, the procedure under s. 343.301 shall be followed
25 if the court orders the immobilization of each motor vehicle owned by the person or

any

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1 if the court requires that the person's operating privilege for the operation of
2 "Class D" vehicles be restricted to operating "Class D" vehicles equipped with an
3 ignition interlock device and that each vehicle owned by the person be equipped with
4 an ignition interlock device. If the number of convictions under ss. 940.09 (1) and
5 940.25 in the lifetime of the person whose operating privilege is revoked under sub.
6 (10), plus the total number of other convictions, suspensions, and revocations counted
7 under s. 343.307 (1), equals 2 or more, ^{explain} the procedure under s. 346.65 (6) shall be
8 followed regarding the immobilization or seizure and forfeiture of a motor vehicle
9 owned by the person or the equipping of a motor vehicle owned by the person with
10 an ignition interlock device.

story: 1987 a. 3, 27, 399; 1989 a. 7, 31, 56, 105, 359; 1991 a. 39, 251, 277; 1993 a. 16, 105, 315, 317, 491; 1995 a. 27 ss. 6412cnL, 9126 (19); 1995 a. 113, 269, 425, 426, 436, 448; 1997 a. 35, 84, 107, 191, 237, 290; 1999 a. 9, 32, 109.
story:

11 SECTION ~~343.305~~ 343.305 (10m) of the statutes, as affected by 2001 Wisconsin
12 Act 2001 Wisconsin Act 44 (this act), is renumbered 343.305 (10m) (b) and amended
13 to read: ~~343.305~~ 3423h

✓ 14 343.305 (10m) (b) ~~REFUSALS, SEIZURE, IMMOBILIZATION OR IGNITION INTERLOCK OF~~

2 15 ~~A MOTOR VEHICLE~~. If the person whose operating privilege is revoked under sub. (10)

16 has ~~1~~ or more ~~other~~ ^{plain} convictions, suspensions, or revocations, as counted under s.

✓ 17 343.307 (1) within ^{any} 5-year period, the procedure under s. 343.301 shall be followed

18 if the court orders the immobilization of each motor vehicle owned by the person or

19 if the court requires that the person's operating privilege for the operation of

20 "Class D" vehicles be restricted to operating "Class D" vehicles equipped with an

21 ignition interlock device and that each vehicle owned by the person be equipped with

22 an ignition interlock device. If the number of convictions under ss. 940.09 (1) and

23 940.25 in the lifetime of the person whose operating privilege is revoked under sub.

24 (10), plus the total number of other convictions, suspensions, ^{plain} and revocations counted

strike spaces
fix
1 under s. 343.307 (1), equals 2 or more, the procedure under s. 346.65 (6) shall be
2 followed ~~regarding the immobilization or~~ if the court orders seizure and forfeiture of
3 ~~a~~ the motor vehicle used in the improper refusal and owned by the person ~~or the~~
4 ~~equipping of a motor vehicle owned by the person with an ignition interlock device.~~

3423j
5 ^{story:} SECTION ~~343.305~~ 343.305 (10m) (a) of the statutes is created to read: ~~141.02~~
6 343.305 (10m) (a) Except as provided in par. (b), if the person whose operating
7 privilege is revoked under sub. (10) has ~~1~~ or more prior convictions, suspensions, ^{one} or
8 revocations, as counted under s. 343.307 (1), the procedure under s. 343.301 shall be
9 followed if the court orders the immobilization of the motor vehicle used in the
10 violation and owned by the person or if the court requires that the person's operating
11 privilege for the operation of "Class D" vehicles be restricted to operating "Class D"
12 vehicles equipped with an ignition interlock device. If the number of convictions
13 under ss. 940.09 (1) and 940.25 in the lifetime of the person whose operating privilege
14 is revoked under sub. (10), plus the total number of other convictions, suspensions,
15 and revocations counted under s. 343.307 (1), equals 2 or more, the procedure under
16 s. 346.65 (6) shall be followed if the court orders seizure and forfeiture of the motor
17 vehicle used in the improper refusal and owned by the person.

3443g
18 INSERT D
19 SECTION ~~344.301~~ 346.65 (6) (a) 1. of the statutes, ~~as affected by 2001 Wisconsin~~
20 ~~Act~~ *this section* is amended to read:

21 346.65 (6) (a) 1. ~~The~~ Except as provided in s. 343.301, the court may order a law
22 enforcement officer to seize the motor vehicle used in the violation or improper
23 refusal and owned by the person, or, if the motor vehicle is not ordered seized, shall
24 order a law enforcement officer to equip the motor vehicle with an ignition interlock

1 device or immobilize any motor vehicle owned by the person, whose operating
2 privilege is revoked under s. 343.305 (10) or who committed a violation of s. 346.63
3 (1) (a), (b) or (2) (a) 1. or 2., 940.09 (1) (a) or (b), (c) or (d) or 940.25 (1) (a), (b), (c) or
4 (d) if the person whose operating privilege is revoked under s. 343.305 (10) or who
5 is convicted of the violation has 2 or more prior suspensions, revocations or
6 convictions, counting convictions under ss. 940.09 (1) and 940.25 in the person's
7 lifetime, plus other convictions, suspensions or revocations counted under s. 343.307
8 (1). The court may not order a motor vehicle seized, equipped with an ignition
9 interlock device or immobilized if that would result in undue hardship or extreme
10 inconvenience or would endanger the health and safety of a person.

11 INSERT E: 3443m✓

12 SECTION ~~346.65~~ 346.65 (6) (m) of the statutes is amended to read:

13 346.65 (6) (m) The Except as provided in s. 343.301, the court may order a
14 vehicle to be immobilized under this subsection for not more than the period that the
15 person's operating privilege is revoked under s. 343.30 or 343.31. The court may
16 order a vehicle to be equipped with an ignition interlock device under this subsection
17 for not more than 2 years more than the period that the person's operating privilege
18 is revoked under s. 343.30 or 343.31. If the court orders any motor vehicle
19 immobilized or equipped with an ignition interlock device under this subsection, the
20 owner shall be liable for the reasonable costs of the immobilization or the equipping
21 of the ignition interlock device. If a motor vehicle that is immobilized is subject to
22 a security agreement, the court shall release the motor vehicle to the secured party
23 upon the filing of an affidavit by the secured party that the security agreement is in
24 default and upon payment of the accrued cost of immobilizing the motor vehicle.))

25 INSERT E2:

Goes before
"D"

3443c
11 SECTION A. 346.65 (2) (b) of the statutes is amended to read:

346.65 (2) (b) Except as provided in par. (f), shall be fined not less than \$350 nor more than \$1,100 and imprisoned for not less than 5 days or, subject to sub. (7), to perform not less than 30 days community service under s. 973.03 (3) (a), nor more than 6 months if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations and other convictions counted under s. 343.307 (1) within a 10-year period, equals 2, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one.

story: 1971 c. 278; 1973 c. 218; 1977 c. 193; 1979 c. 221; 1981 c. 20; 1985 a. 80, 337; 1987 a. 3, 27, 398, 399; 1989 a. 105, 176, 271; 1991 a. 39, 251, 277, 315; 1993 a. 198, 317, 475; 1995 a. 44, 338, 359, 425; 1997 a. 27, 135, 199, 237, 277, 283, 295; 1999 a. 32, 109.

10 INSERT F:

3445f
11 SECTION ~~3445f~~. 347.413 (1) of the statutes is amended to read:

347.413 (1) No person may remove, disconnect, tamper with or otherwise circumvent the operation of an ignition interlock device installed in response to the court order under s. 346.65 (6) or s. 343.301 (2). This subsection does not apply to the removal of an ignition interlock device upon the expiration of the order requiring the motor vehicle to be so equipped or to necessary repairs to a malfunctioning ignition interlock device by a person authorized by the department.

18 INSERT G:

3445h
19 SECTION 3445h. 347.417 (1) of the statutes is amended to read:

347.417 (1) No person may remove, disconnect, tamper with or otherwise circumvent the operation of any immobilization device installed in response to a court order under s. 346.65 (6) or s. 343.301 (2). This subsection does not apply to the removal of an immobilization device pursuant to a court order or to necessary repairs to a malfunctioning immobilization device.

343.301(2) or

343.301⁽²⁾ for

1 **INSERT H.**

3445K

2 **SECTION** 347.417 (2) of the statutes is amended to read:

3 347.417 (2) The department shall design a warning label which shall be affixed
4 by the owner of each immobilization device before the device is used to immobilize
5 any motor vehicle under s. 346.65 (6) ~~or 343.301 (2)~~. The label shall provide notice
6 of the penalties for removing, disconnecting, tampering with or otherwise
7 circumventing the operation of the immobilization device.

8 **INSERT I.**

3937j

9 **SECTION** 940.09 (1d) of the statutes is renumbered 940.09 (1d) (b) and
10 amended to read:

11 940.09 (1d) (b) If the person who committed an offense under sub. (1) (a), (b),
12 (c) or (d) has 2 or more prior convictions, suspensions, or revocations, as counting
13 convictions under sub. (1) and s. 940.25 in the person's lifetime plus other
14 convictions, suspensions, or revocations counted under s. 343.307 (1), the procedure
15 under s. 346.65 (6) may be followed regarding the immobilization or the seizure and
16 forfeiture of a motor vehicle owned by the person who committed the offense or the
17 equipping of a motor vehicle owned by the person with an ignition interlock device.

story: 1977 c. 173; 1981 c. 20, 184, 314, 391; 1983 a. 459; 1985 a. 331; 1987 a. 399; 1989 a. 105, 275, 359; 1991 a. 32, 277; 1993 a. 317; 1995 a. 425, 436; 1997 a. 237, 295, 338; 1999 a. 32, 109.

18 **SECTION** 940.09 (1d) (a) of the statutes is created to read:

19 3937k 940.09 (1d) (a) Notwithstanding par. (b), if the person who committed an
20 offense under sub. (1) (a), (b), (c), or (d) has 2 or more prior convictions, suspensions,
21 or revocations counted under s. 343.307 (1), the procedure under s. 343.301 shall be
22 followed if the court orders that the person's operating privilege for the operation of
23 "Class D" vehicles be restricted to operating "Class D" vehicles that are equipped
24 with an ignition interlock device and the court orders the installation of an ignition

3937m
1 interlock device in each motor vehicle owned by the person or if the court orders that
2 each motor vehicle owned by the person be immobilized.

3 SECTION ~~940.09~~ 940.09 (1d) (a) of the statutes, as created by ~~2001 Wisconsin~~
4 ~~Act~~ 2001 Wisconsin Act ~~999~~ (this act), is renumbered 940.09 (1d) (a) 2.

5 INSERT J:

6 SECTION ~~940.09~~ 940.09 (1d) (b) of the statutes, as affected by ~~2001 Wisconsin~~
7 ~~Act~~ 2001 Wisconsin Act ~~999~~ (this act), is amended to read:

8 940.09 (1d) (b) If the person who committed an offense under sub. (1) (a), (b),
9 (c) ^{plain comma and space} or (d) has 2 or more prior convictions, suspensions, or revocations, counting
10 convictions under sub. (1) and s. 940.25 in the person's lifetime ^V plus other
11 convictions, suspensions, ^V or revocations counted under s. 343.307 (1), the procedure
12 under s. 346.65 (6) ~~may shall~~ ^{strike} be followed ~~regarding the immobilization or if the court~~
13 orders the seizure and forfeiture of a motor vehicle owned by the person who
14 committed the offense ~~or the equipping of a motor vehicle owned by the person with~~
15 ~~an ignition interlock device.~~ ^{plain space}

16 INSERT K:

17 SECTION ~~940.25~~ 940.25 (1d) of the statutes is renumbered 940.25 (1d) (b) and
18 amended to read:

19 940.25 (1d) (b) If the person who committed an offense under sub. (1) (a), (b),
20 (c) ^Δ or (d) has 2 or more prior convictions, suspensions, ^V or revocations, as counting
21 convictions under sub. (1) and s. 940.09 (1) in the person's lifetime ^V plus other
22 convictions, suspensions, or revocations counted under s. 343.307 (1), the procedure
23 under s. 346.65 (6) may be followed regarding the immobilization or the seizure and
24 forfeiture of a motor vehicle owned by the person who committed the offense or the
25 equipping of a motor vehicle owned by the person with an ignition interlock device.

3938K

① SECTION ~~940.25~~ 940.25 (1d) (a) of the statutes is created to read:

2 940.25 (1d) (a) Notwithstanding par. (b), if the person who committed an
3 offense under sub. (1) (a), (b), (c), or (d) has 2 or more prior convictions, suspensions,
4 or revocations counted under s. 343.307 (1), the procedure under s. 343.301 shall be
5 followed if the court orders that the person's operating privilege for the operation of
6 "Class D" vehicles be restricted to operating "Class D" vehicles that are equipped
7 with an ignition interlock device and the court orders the installation of an ignition
8 interlock device in each motor vehicle owned by the person or if the court orders that
9 each motor vehicle owned by the person be immobilized. 3938m

⑩ SECTION ~~940.25~~ 940.25 (1d) (a) of the statutes, as created by ~~2001 Wisconsin~~
⑪ ~~Act~~ 2001 Wisconsin Act ~~940.25~~ (this act), is renumbered 940.25 (1d) (a) 2.

12 .INSERT L: 3938p

⑬ SECTION ~~940.25~~ 940.25 (1d) (b) of the statutes, as affected by ~~2001 Wisconsin~~
⑭ ~~Act~~ 2001 Wisconsin Act ~~940.25~~ (this act), is amended to read:

15 940.25 (1d) (b) If the person who committed an offense under sub. (1) (a), (b),
16 (c), or (d) has 2 or more prior convictions, suspensions, or revocations, counting
⑬ convictions under sub. (1) and s. 940.09 (1) in the person's lifetime plus other
18 convictions, suspensions, or revocations counted under s. 343.307 (1), the procedure
⑲ under s. 346.65 (6) ~~may shall~~ be followed ~~regarding the immobilization or if the court~~
20 ~~orders~~ the seizure and forfeiture of a motor vehicle owned by the person who
⑳ committed the offense ~~or the equipping of a motor vehicle owned by the person with~~
21 ~~an ignition interlock device.~~ " "
22

plain space

Insert M

CS No B

~~99 Wis. Act 109, § 90 continued~~

~~(3) (IGNITION INTERLOCK AND IMMOBILIZATION.) The treatment of sections 342.12 (4) (a), (b) and (c) 1. (intro.), 343.10 (5) (a) 3., 343.301, 343.305 (10m), 346.65 (6) (a) 1. (by SECTION 56j), 2m. and 3. and (b), (d), (k) and (m), 347.413 (1) and (2), 347.417 (1) and (2), 940.09 (1d) (a) and 940.25 (1d) (a) of the statutes and the renumbering of sections 940.09 (1d) and 940.25 (1d) of the statutes first apply to violations committed or refusals occurring on the effective date of this subsection, but does not preclude the counting of other convictions, suspensions or revocations as prior convictions, suspensions or revocations for purposes of administrative action by the department of transportation or sentencing by a court.~~

[1999 Wisconsin Act 109] Section 90
=

applies

Insert 2

~~99 Wis. Act 109, s. 91 continued~~

(2) The treatment of sections 342.12 (4) (a), (b) and (c) 1. (intro.), 343.10 (5) (a) 3.,
~~343.301, 343.305 (10m), 346.65 (6) (a) 1. (by SECTION 56j), 2m. and 3. and (b), (k) and (m),~~
~~347.413 (1) and (2), 347.417 (1) and (2), 940.09 (1d) (a) and 940.25 (1d) (a) of the statutes, the~~
~~renumbering of sections 940.05 (1d) and 940.25 (1d) of the statutes and SECTION 90 (3) of this~~
act take effect on January 1, 2002. "



and

[1999 Wisconsin Act 109] Section 91

(15) No (B)

Insert 0 (page 1 of 2)

(C5)

343.10(5)(a) 3. (by SECTION 3409g), 346.65
(6)(a) 1. (by SECTION 3443k), 347.413(1)(by
SECTION 3445g), 347.417(1)(by SECTION 3445j)
and (2)(by SECTION 3445m), 940.09(1d)(b)(by
SECTION 3937p), and 940.25(1d)(b) of the
statutes, the renumbering of sections 940.09(1d)
(a)(by SECTION 3937m) and 940.25(1d)(a)(by
SECTION 3938m), of the statutes
the renumbering and amendment
of sections 343.301(1)(a)(by SECTION 3418m)
and (b)(by SECTION 3420m) and (2)(a)(by
SECTION 3420p) and (b)(by SECTION 3420s) and
343.305(10m)(by SECTION 3423h) of the statutes,
and the creation of sections ^{343.301}~~343.30~~(1)(a) 1. (by
SECTION 3419m) and (b) 1. (by SECTION 3420n)
and (2)(a) 1. (by SECTION 3420r) and (b) 1.

Insert 0 (page 2 of 2)

(by SECTION 3420t), 343.305 (10m)(a) (by
SECTION 3423j), 940.09 (1d)(a)1. (by SECTION
3937n), and 940.25 (1d)(a)1. (by SECTION
3938n)

(end of insert)

Hurley, Peggy

From: Dyck, Jon
Sent: Sunday, June 10, 2001 8:25 AM
To: Hurley, Peggy
Subject: 0493/2

Peggy,

I've read over your /2 and John Sobotik's comments. On their comments: Let's count refusals, even though the feds don't require it. So don't change anything there. I do think, however, that we should change all the "owned by" to "titled in the name of" in all of the IID and immobilization sections. A lot of their other comments were taken care of in the redraft. I'm not too concerned about some of the wording changes they suggested to make it more readable. If you want to make those changes based on their suggestions, that's fine. Re: the areas where the draft says "the court shall use the procedure under 343.301 if the court orders..." : They seem to think that this makes the vehicle sanctions optional, but I don't necessarily think so. The procedures under 301 are mandatory, so I think it works. If you disagree, you could change those "ifs" to "whens" I guess. I got confused by some of their other comments. If you understand them and they make sense, use your discretion on making their suggested changes. *OK*

There were a few sections for which I didn't see an initial applicability date: 343.30 (1q) (b) 3. and 4. 343.305 (10) (b) 3. and 4. and 346.65 (2) (b). I think all of those should be September 30, 2001. I can't guarantee that there weren't others that were missed. Also, on page 22, line 5 and page 23, line 10, should there be "(by section 3409f)" after "3."? *add these* And should "343.301 (by Section 3417m)" be moved to line 8 after "and the creation of sections"? *no*

On page 3, line 7 and page 11, line 25: I know we decided these should stay in, but Fred pointed out that if a revocation period was exactly one year, the occupational license could be issued after 60 days, which shouldn't be the case. In other words, adding that conditional statement creates a loophole that the feds would find unacceptable. I think it should be taken out. *OK*

On page 3, line 9 and 20: should the phrase "or more" be added after "2"? I think so, but I'm not sure. *no*

At various locations the phrase "titled in the name of" should be substituted for "owned", but this only needs to apply to those 2 or more in five year people, so we don't need to go changing other areas of current law. *OK*

I'm confused by 343.305 (10m), 940.09 (1d) and 940.25 (1d) so I don't know that I can offer any quality comments. But it seems like the Act 109 counting procedures are being created on September 30, 2001. Is that correct? If you think it has to be done and it works, that's fine. In 940.09 and .25, in the created language, I didn't see "within any 5-year period" anywhere. It just says "2 or more prior convictions". Is this intentional? *no*

I'm going to my youngest son's birthday party now, so I will be gone for a bit. My home phone number is 233-5708 if you need to contact me. I'll likely be back later. Fred is planning to be here, so you could talk to him too about any questions. He asked that you give us an idea when we could expect to see a /3 on this one. Give him a call or send an e-mail when you get it to give us an idea. Thanks.

Jon Dyck, Fiscal Analyst
Legislative Fiscal Bureau
1 E. Main, Suite 301
(608) 266-9919

06/10/2001